

and why 80,000 people are basically today not going to be able to go to work tomorrow.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, September 6, 2011, at 5 p.m., the Senate proceed to Executive Session to consider Calendar No. 109; that there be 30 minutes of debate equally divided in the usual form; that upon the use or yielding back of that time the Senate proceed to vote with no intervening action or debate on Calendar No. 109, the motion to reconsider be laid upon the table, with no intervening action or debate; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE LEAHY-SMITH AMERICA INVENTS ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 87, H.R. 1249.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform.

#### CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 87, H.R. 1249, the Leahy-Smith America Invents Act.

Harry Reid, Patrick J. Leahy, Thomas R. Carper, Joseph I. Lieberman, Richard Blumenthal, Charles E. Schumer, Amy Klobuchar, Robert Menendez, Jeanne Shaheen, John F. Kerry, Mark Udall, Mark R. Warner, Ben Nelson, Jeff Bingaman, Max Baucus, Mark Begich, Robert P. Casey, Jr.

Mr. REID. I now ask unanimous consent that on Tuesday, September 6, following the disposition of the nomination of Bernice Bouie Donald and the resumption of the legislative session, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to Calendar No. 87, H.R. 1249; further, that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to the following Environment and Public Works bills, en bloc: Calendar No. 72, S. 710; and Calendar No. 117, S. 1302.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is my understanding that the Chair has granted consent for the Senate to proceed to the consideration of those two bills; is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that the bills be read a third time and passed, en bloc; the motions to reconsider be laid upon the table en bloc, and any relevant statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HAZARDOUS WASTE ELECTRONIC MANIFEST ESTABLISHMENT ACT

The bill (S. 710) to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

#### S. 710

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazardous Waste Electronic Manifest Establishment Act".

#### SEC. 2. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.

(a) IN GENERAL.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following:

#### "SEC. 3024. HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM.

"(a) DEFINITIONS.—In this section:

"(1) BOARD.—The term 'Board' means the Hazardous Waste Electronic Manifest System Advisory Board established under subsection (f).

"(2) FUND.—The term 'Fund' means the Hazardous Waste Electronic Manifest System Fund established by subsection (d).

"(3) PERSON.—The term 'person' includes an individual, corporation (including a Government corporation), company, association, firm, partnership, society, joint stock company, trust, municipality, commission, Federal agency, State, political subdivision of a State, or interstate body.

"(4) SYSTEM.—The term 'system' means the hazardous waste electronic manifest system established under subsection (b).

"(5) USER.—The term 'user' means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that—

"(A) is required to use a manifest to comply with any Federal or State requirement to track the shipment, transportation, and receipt of hazardous waste or other material that is shipped from the site of generation to an off-site facility for treatment, storage, disposal, or recycling; and

"(B)(i) elects to use the system to complete and transmit an electronic manifest format; or

"(ii) submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accord-

ance with such regulations as the Administrator may promulgate to require such a submission.

"(b) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this section, the Administrator shall establish a hazardous waste electronic manifest system that may be used by any user.

#### "(c) USER FEES.—

"(1) IN GENERAL.—The Administrator may impose on users such reasonable service fees as the Administrator determines to be necessary to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system after the date on which the system enters operation.

"(2) COLLECTION OF FEES.—The Administrator shall—

"(A) collect the fees described in paragraph (1) from the users in advance of, or as reimbursement for, the provision by the Administrator of system-related services; and

"(B) deposit the fees in the Fund for use in accordance with this subsection.

#### "(3) FEE STRUCTURE.—

"(A) IN GENERAL.—The Administrator, in consultation with information technology vendors, shall determine through the contract award process described in subsection (e) the fee structure that is necessary to recover the full cost to the Administrator of providing system-related services, including costs relating to—

"(i) materials and supplies;

"(ii) contracting and consulting;

"(iii) overhead;

"(iv) information technology (including costs of hardware, software, and related services);

"(v) information management;

"(vi) collection of service fees;

"(vii) investment of any unused service fees;

"(viii) reporting and accounting;

"(ix) employment of direct and indirect Government personnel dedicated to establishing and maintaining the system; and

"(x) project management.

"(B) ADJUSTMENTS IN FEE AMOUNT.—

"(i) IN GENERAL.—The Administrator, in consultation with the Board, shall increase or decrease amount of a service fee determined under the fee structure described in subparagraph (A) to a level that will—

"(I) result in the collection of an aggregate amount for deposit in the Fund that is sufficient to cover current and projected system-related costs (including any necessary system upgrades); and

"(II) minimize, to the maximum extent practicable, the accumulation of unused amounts in the Fund.

"(ii) EXCEPTION FOR INITIAL PERIOD OF OPERATION.—The requirement described in clause (i)(II) shall not apply to any additional fees that accumulate in the Fund, in an amount that does not exceed \$2,000,000, during the 3-year period beginning on the date on which the system enters operation.

"(iii) TIMING OF ADJUSTMENTS.—Adjustments to service fees described in clause (i) shall be made—

"(I) initially, at the time at which initial development costs of the system have been recovered by the Administrator such that the service fee may be reduced to reflect the elimination of the system development component of the fee; and

"(II) periodically thereafter, upon receipt and acceptance of the findings of any annual accounting or auditing report under subsection (d)(6), if the report discloses a significant disparity for a fiscal year between the funds collected from service fees under this